

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

UNITED STATES OF AMERICA,)	
)	
v.)	No. 3:03-CR-0434-D
)	
SCOTT WESLEY HALL,)	
Defendant.)	

REPORT AND RECOMMENDATION

By Order of Reference dated May 5, 2005, the District Court referred defendant's "Motion for Good Time Credits" to the undersigned Magistrate Judge for hearing, if necessary, and for recommendation.

Defendant, a federal prisoner currently incarcerated in a United States Penitentiary located in Beaumont, Texas,¹ filed the instant motion pursuant to 18 U.S.C. § 3585(b) to obtain fourteen months credit to his current sentence. Although defendant has filed the motion in his criminal action in this Court, the proper construction for such motion is a petition for writ of habeas corpus filed pursuant to 28 U.S.C. § 2241. *See United States v. Cleto*, 956 F.2d 83, 84 (5th Cir. 1992) (per curiam). When a federal prisoner "challenges the execution of his sentence rather than the validity of his conviction and sentence", the proper vehicle is a § 2241 petition filed in the district of incarceration. *Id.* In fact, the district of incarceration is the only district with jurisdiction to consider such a § 2241 action. *Id.*

Consequently, it is hereby recommended that the Court **CONSTRUE** defendant's "Motion for Good Time Credits" (doc. 115) as a petition filed pursuant to 28 U.S.C. § 2241 and **DIRECT**

¹ Beaumont is located in Jefferson County, Texas. Defendant's current place of incarceration is thus located in the Beaumont Division of the United States District Court for the Eastern District of Texas. *See* 28 U.S.C. § 124(c)(2).

the Clerk of the Court to open a new civil action, file the instant motion in that action as a § 2241 petition filed April 27, 2005, and immediately transfer the new § 2241 action to the United States District Court for the Eastern District of Texas, Beaumont Division, without further judicial direction.

SIGNED this 1st day of August, 2005.


IRMA CARRILLO RAMIREZ
UNITED STATES MAGISTRATE JUDGE

**INSTRUCTIONS FOR SERVICE AND
NOTICE OF RIGHT TO APPEAL/OBJECT**

The United States District Clerk shall serve a copy of these findings, conclusions, and recommendation on petitioner by mailing a copy to him. Pursuant to 28 U.S.C. § 636(b) (1), any party who desires to object to these findings, conclusions and recommendation must file and serve written objections within ten days after being served with a copy. A party filing objections must specifically identify those findings, conclusions, or recommendation to which objections are being made. The District Court need not consider frivolous, conclusory, or general objections. Failure to file written objections to the proposed findings, conclusions, and recommendation within ten days after being served with a copy shall bar the aggrieved party from appealing the factual findings and legal conclusions of the Magistrate Judge that are accepted by the District Court, except upon grounds of plain error. *Douglass v. United Servs. Auto Ass'n*, 79 F.3d 1415, 1428-29 (5th Cir. 1996) (*en banc*).


IRMA CARRILLO RAMIREZ
UNITED STATES MAGISTRATE JUDGE